

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 355/359  
THURSDAY, MAY 17, 2012, 1:00 P.M.**

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**CALL TO ORDER**

Mr. Goodchild, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Bob Peregrine	Jim Siepmann	Gary Goodchild
	Fritz Ruf	Pat Haukohl	Walter Kolb

Commission

Members Absent: Bill Mitchell

Staff

Members Present: Jason Fruth, Planning and Zoning Manager  
Elfriede Sprague, Clerk Typist III

Guests Present:	Mike Bieniek	CU-832F and PO-12-VNT-04
	Shelly Clarkson	CU-1558 and PO-12-PTWT-02
	Ron Lostetter	CU-1187C and PO-12-VNT-05
	Jim Romanowski	ZT-1736
	James McNelly	SZT-1732
	Chris Heitman	SCU-1223

**CORRESPONDENCE:** None.

**MEETING APPROVAL:** None.

**MINUTES:** Approval of the April 5 and April 19, 2012 Minutes

- *Mr. Peregrine moved, seconded by Mr. Siepmann and carried unanimously for approval of the April 5, 2012, Minutes.*
- *Mrs. Haukohl moved, seconded by Mr. Peregrine and carried unanimously for approval of the April 19, 2012, Minutes.*

**PUBLIC COMMENT**

Chairperson Goodchild asked if anyone from the audience wished to address the Commission. With no public comment, he moved to the next item on the agenda.

- **SZT-1732 (James and Karen McNelly) Town of Mukwonago, Section 4**

Mr. Fruth pointed out the location of the property, at W312 S6510 Willow Spring Dr. in the Town of Mukwonago on the aerial photograph. He indicated the request is to rezone the property from the A-2 Rural Home District (County) and the S-E Suburban Estate District (Town) to the R-1 Residential District (County and Town) with the Conservancy District to remain unchanged.

Mr. Fruth noted the McNelly property received a Land Use Plan Amendment this year (2012) with a condition that a restriction be placed on the property that it cannot be further divided. The proposal is for the parcel to be divided into two parcels by Certified Survey Map (CSM), with an east/west line. Proposed Lot 1 (3.5 acres) contains the existing house near Willow Spring Lake and the northerly lot, Lot 2 (2.3 acres) would be for a second home site for the petitioner's daughter. Since the northern lot cannot meet the minimum 3-acre lot size requirement, a zoning amendment is required. It is proposed to be rezoned to the R-1 Residential District, which requires a minimum lot size of one acre and is consistent with the surrounding neighborhood. SEWPRC has field delineated the natural resources on the site and FEMA mapping has been used to estimate the unstudied boundary of the floodplain in this area. The proposed building site is situated in an area outside of all the natural resources and near the road. The current driveway meanders through a floodplain and wetland area terminating at the existing home site. The proposal is to share the driveway with the owners of both properties. There was discussion regarding the creation of another driveway however given the wetland and floodplain constraints, Staff feels a shared driveway is a better alternative to the creation of a second driveway. The petitioners will need to obtain an easement to continue using the driveway and a Driveway Maintenance Agreement is being required.

Mrs. Haukohl asked what were the concerns of the neighbor regarding the utility easement? Mr. Fruth replied the County does not control utility easements and it something the McNelly's are working with the neighbor to resolve. She asked if the newly created lot would have access to utilities? Mr. McNelly spoke briefly on the issue. He explained the neighbor is upset about the tree trimming that is involved with the overhead utility wires. He would prefer to have underground utilities; however, it would be very costly. Mr. Goodchild commented that there are utilities on three sides of the parcel and how the home will be served will not be determined until the home is designed and applications have been submitted for the utilities. There should be no problem servicing the lot.

Mr. McNelly commented that currently there is a barn service road that has been used for approximately 140 years leading to the outbuildings on the west side of the property that they would like to see become another driveway. They are working with the DNR to potentially use that area as a drive. He explained the lake was created in 1966 and over the years, the wetlands have expanded over his property into the low grounds. He felt that if the new entrance road were to be allowed, it would be a shorter distance to access utilities and the cost to run them underground to the residence would be less. Mr. Goodchild asked if approval of the rezone would preclude the petitioner from working with the DNR to create the separate driveway? Mr. Fruth explained the petitioners would probably have to work with the DNR, the Army Corps of Engineers and the Planning and Zoning Division Staff as the acreage is both wetland and floodplain. The petitioner is welcome to purpose the creation of another driveway; however, the Staff maintains the opinion that the current driveway is a better alternative.

*After discussion, Mr. Peregrine moved, seconded by Mr. Kolb, and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

• **ZT-1736 (James and Karen Romanowski) Town of Delafield, Section 31**

Mr. Fruth pointed out the location of the property, at the intersection of Cushing Park Rd. and Abitz Rd. in Section 31 in the Town of Delafield on the aerial photograph. He indicated the request is to rezone the property from the A-1 Agricultural District to the A-3 Suburban Home District.

Mr. Fruth explained this is a Town zoning change only. The property is an undeveloped parcel on the east side of Cushing Park Rd. The first time the parcel appears on the tax roll is 1998 when the zoning was A-1, Agricultural District, which at that time was a 3-acre zoning district. Since then, the Town has modified their zoning ordinance to make the A-1 district a 40-acre minimum parcel size district. The property owner has petitioned the Town to bring his parcel into conformance with the current Zoning Code, which would place this parcel into the A-3 Suburban Home District, which is a 2-acre minimum district. When the Town was doing the comprehensive zoning change, there was conversation as to whether they should rezone such parcels into a more appropriate category. The Town Attorney advised against doing so and it was decided to handle the requests on an individual basis. The Staff does not consider this to be spot zoning and feels the approval of the request will make this parcel a conforming lot.

*After discussion, Mr. Peregrine moved, seconded by Mr. Ruf, and carried unanimously for approval, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

• **SZ-1734 (Carroll University) Town of Genesee, Section 27**

Mr. Fruth pointed out the location of the property, at the northeast corner of Hwy. 59 and S.T.H. 83 in the Town of Genesee on the aerial photograph. He indicated the request is to rezone a portion of the property from the A-2 Rural Home Zoning District to the P-I Public and Institutional Zoning District.

Mr. Fruth explained the property currently contains a residence in the central part of the site and an outbuilding on the east part. Genesee Creek traverses the property and there are associated wetlands, floodplain, and Primary Environmental Corridor (PEC) adjacent to the creek. Carroll University currently owns adjacent lands to the north, which have been used for educational and research purposes since the 1970's. These adjacent lands to the north are primarily designated as wetland and floodplain, with no buildable acreage.

Mr. Fruth explained that Carroll University is requesting to rezone a portion of the subject property from the A-2 Rural Home District to P-I Public and Institutional District to accommodate the university's pending acquisition. The acquisition of the subject parcel will provide the university with physical building space that is currently lacking for instructional and functional purposes. It would allow the university to pursue the conversion of the large outbuilding into classroom, storage and equipment cleaning space. It is anticipated that both Carroll students and faculty and local school and organization groups would use the facility. The layout and details of the facility will require review and approval by the Town and County through a Site Plan and Plan of Operation permit process. At such time, parking, driveway access, lighting, signage, structural modifications, impacts to the resources, etc. will be considered. Until a surveyor maps field inventories and the 100-year floodplain is located by the petitioner, the full limits of natural resources as they relate to the driveway and contemplated parking area are not known. He added that this week SEWPRC field delineated the wetlands and PEC on the site, which extend to the S.T.H. 83 right of way; however, survey information has not yet been received.

Based upon the survey delineation, it is possible that the residence and outbuildings may be legal nonconforming structures relative to wetland or floodplain setback. The structures will also be deemed legal nonconforming from offset, since the P-I District requires a 50 ft. offset for all structures, whereas all of the structures are located within 50 ft. of the north lot line. Mr. Fruth suggested that because the university owns the adjacent parcel to the north, the creation of a CSM combining the two parcels could eliminate the non-conforming offset issue. Also, because of the legal nonconforming status of the structures, future additions to the structures may require variances from the Waukesha County Board of

Adjustment. Recent law changes would allow for unlimited renovations to the existing structures without the need for a variance, provided no changes to building footprints are proposed.

Mr. Ron Lostetter, representing Carroll University spoke stating, “as the University gains ownership of the property and make improvements, it is their intent to work with the Town and the County to comply with all the rules and regulations.”

***After discussion, Mr. Ruf moved, seconded by Mr. Peregrine, and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.***

• **SCU-1223 (Christopher Heitman) Town of Ottawa, Section 15**

Mr. Fruth pointed out the location of the property, at W362 S3601 S.T.H. 67 in the Town of Ottawa on the aerial photograph. He indicated the request was for a five-year Conditional Use renewal for a private airstrip.

Mr. Fruth explained the airstrip is a short north/south strip with a small outbuilding on the property. A condition of the original approval, which was issued in 1999, was that the neighborhood be analyzed for any changes when the five-year review was required. A review of the aerial photographs from 1995, 2000, 2005, and 2010 do not show a change in the character of the surrounding area within ½ mile or even one mile, or of the use itself, to cause the use to no longer be compatible with the surrounding area, or detrimental to the public’s health, safety, or general welfare. Development within ½ mile of the airstrip was limited to the development of the town park. Development within one mile of the airstrip was limited to Nature’s Retreat Subdivision. However, there is a significant development that has received preliminary plat approval to the northwest of the subject property in the Village of Dousman that should be considered in future decisions relative to requests for the renewal of this Conditional Use. To date, there has been no further development activity relative to this subdivision plat. Neither the Town nor County has received any complaints regarding this Conditional Use since its original approval in 1999. The Planning and Zoning Division Staff is recommending the renewal of the Conditional Use for the next five years.

Mr. Goodchild asked the petitioner, Mr. Heitman, if he had any comments he wished to make. Mr. Heitman replied, he did not and was agreeable with the recommendation.

***After discussion, Mrs. Haukohl moved, seconded by Mr. Siepmann, and carried unanimously for approval, as conditioned in accordance with the “Staff Memorandum”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.***

• **CU-1558 (Shelley and Stuart Clarkson) Town of Ottawa, Section 1**

Mr. Fruth pointed out the location of the property, at W349 S2280 Waterville Rd. in the Town of Ottawa on the aerial photograph. He indicated the request was for Conditional Use approval for a horse-boarding stable.

Mr. Fruth explained that this matter was brought to the attention of the County because Staff received a complaint that horses were being boarded by someone other than the owner of the property, which requires a Conditional Use. He explained the property is 9.5 acres, zoned AD-10 and the northeast corner is zoned EC. The request is for the boarding of seven horses. An arrangement has been in place for the boarder to keep five of her horses on the property in exchange for caretaking of the property.

Mr. Fruth noted the fencing on the property and asked if it continued into the Isolated Natural Resource Area in the northeast corner of the property. Ms. Johnson, the property caretaker, replied the entire property is enclosed with wire fencing and inside the wire fencing there is an enclosure with wooden fencing. She indicated the one time the horses did get out was because the owner's son forgot to close the gate. Mr. Goodchild commented that at the Town meeting there were several residents who spoke in favor of the petitioner and stated the horses were being well taken care of. Mr. Fruth added the County Humane officer has visited the site and reported that the property fencing was adequate and that the animals were well fed and cared for. The Town recommended approval with a number of conditions, namely that a Manure Management Plan be prepared, reviewed and approved by the Land Resources Division, a Fencing Plan be submitted by the middle of June, the number of horses be restricted to 7, there be no trespassing on private trails and only two horse trailers and one hay wagon are allowed on the site in a screened area. Mr. Fruth added that at the time of Ms. Scherer's Staff visit she confirmed they were located appropriately.

Mr. Goodchild asked the petitioner if she had any questions about the conditions. Mrs. Clarkson indicated that she did not. She felt most of the conditions had been met and just needed to meet with Ms. Scherer to finalize everything.

*After discussion, Mr. Peregrine moved, seconded by Mr. Kolb, and carried unanimously for approval, as conditioned in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

• **PO-12-OTWT-2 (Shelly and Stuart Clarkson) Town of Ottawa, Section 1**

Mr. Fruth pointed out the location of the property, at W349 S2280 Waterville Rd. in the Town of Ottawa on the aerial photograph. He indicated the request was related to the previous CU-1558.

*After discussion, Mrs. Haukohl moved, seconded by Mr. Siepmann, and carried unanimously for approval, as conditioned in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

• **SCU-1559 (Eden Stone Company) Town of Lisbon, Section 22**

Mr. Fruth pointed out the location of the property, at W249 N6916 S.T.H. 164 in the Town of Lisbon. He indicated the request was for Conditional Use approval for land altering activities associated with the construction of landscape berms.

Mr. Fruth stated that Eden Stone is a wholesaler of dimensional stone and concrete products, similar to the prior occupant of the site which was County Materials Corporation. When the petitioner applied for the Site Plan/Plan of Operation, the requirement for landscaping berms came up during discussions with the Town of Lisbon in an effort to improve the appearance of the site from S.T.H. 164. The berms require a Conditional Use Permit from the Town of Lisbon and Waukesha County for land altering activities.

Mr. Fruth explained the berms will be constructed along the west and south (west) sides of the property as shown on the proposed landscape plan, Revision No. 2, prepared by Durham Hill Nursery. There are still some issues with the berms, as they are not set back far enough from the road. A revised Landscaping Plan will need to be submitted.

In keeping with a more natural appearance the County and Town are looking for some variations in the berm, including dips and rises and a variety of plantings, from low level plantings to trees. The westerly berm to be located along S.T.H. 164 will be approximately 4' in height, 35' wide by 210' long, and be about 6,000 square feet in area. The southwest berm will be located along the south lot line, and will be approximately 3' in height, 5' wide by 65' long, and 325 square feet in area. The County is recommending a number of conditions in accordance with the Town, a Storm Water Permit is being required, the Landscaping Plan needs to be changed to meet the 10 ft. setback of the highway right of way, the wetland setback needs to be 50 ft., an As-Built Survey is being required, a minimum of 4" of topsoil shall be used when completing the berm and the project must be completed by July 20, 2012.

Mr. Goodchild questioned the location of the wetlands. Mr. Marty Miller, Environmental Compliance Manager of Eden Stone, pointed out the wetlands on the aerial photograph and stated anything on the site that is not filled is wetlands. He stated the property was surveyed yesterday to include all the property boundaries and the wetland boundaries. He indicated the survey should be submitted to the County within the next few days. Mr. Miller noted that per the Landscaping Plan Revision No. 2, the berms are labeled 10 ft. from toe of berm to property line. He asked if that was insufficient and needed to be redrawn. Mr. Fruth replied Ms. Scherer is doing the detailed review and she could clarify what is needed. Mr. Goodchild asked Mr. Miller if he had any questions regarding the conditions. He replied he did not.

*After discussion, Mr. Peregrine moved, seconded by Mr. Ruf, and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **CU-0832F (AT & T) Town of Vernon, Section 25**

Mr. Fruth pointed out the location of the property, directly east of W224 S10030 Big Bend Rd. in the Town of Vernon on the aerial photograph. He indicated the request was for Conditional Use approval to install 3 new antennae on the existing tower with associated wiring and equipment and allow for co-location requests and equipment modifications to be authorized through the Site Plan/Plan of Operation permitting process.

Mr. Fruth explained the original Conditional Use dates to 2001 and the petition is for some minor changes. In 2008 a CU was authorized for six antennae on the parcel. Three antennae are now being proposed and the construction of a small 2 ft. x 2 ft. utility cabinet at the base. The County is recommending approval of the request with the added condition that the recommendations of the structural analysis be complied with. Mrs. Haukohl noted that the conditions did not address the removal of the equipment if the use is discontinued. Mr. Bienek, representing the petitioner, replied the condition is in the original Conditional Use agreement and that it would not apply to this request. This is request is for co-location and the petitioner is not the tower owner. The equipment would have to be removed by the tower owner. Mr. Fruth researched the condition and verified it was in the original file.

*After discussion, Mr. Siepmann moved, seconded by Mrs. Haukohl, and carried unanimously for approval, as conditioned in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **PO-12-VNT-04 (AT & T) Town of Vernon, Section 25**

Mr. Fruth pointed out the location of the property, directly east of W224 S10030 Big Bend Rd. in the Town of Vernon on the aerial photograph. He indicated the request was related to the previous CU-0832F.

*After discussion, Mrs. Haukohl moved, seconded by Mr. Siepmann, and carried unanimously for approval, as conditioned in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **CU-1187C (AT & T) Town of Vernon, Section 11**

Mr. Fruth pointed out the location of the property at W236 S7575 High Point Ct., in the Town of Vernon on the aerial photograph. He indicated the request was for Conditional Use approval to install 3 new antennae on the existing WEPCO tower with associated wiring and equipment and allow for co-location requests and equipment modifications to be authorized through the Site Plan/Plan of Operation permitting process.

Mr. Fruth identified the easement area on the west side of the property where the WEPCO tower is located. He stated the request is for 3 new antennae for a co-locator and for future modifications to be authorized through the Site Plan/Plan of Operation permitting process. The 2008 amendment authorized 6 antennae on the 150 ft. existing tower. The conditions of approval are similar to the previous request, specifically a structural analysis needs to be submitted and the landowner's signature is being required on the application. He explained the tower is on a WEPCO easement and Staff is uncertain as to who needs to sign the petition, the landowner or the easement holder. Because the Ordinance specifically states that applicants need to be the landowner, Corporation Counsel has been consulted to make a determination if the landowner's authorization of the applications must be obtained prior to the issuance of a Conditional Use Permit.

*After discussion, Mr. Siepmann moved, seconded by Mr. Ruf, and carried unanimously for approval, as conditioned in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **PO-12-VNT-05 (AT & T) Town of Vernon, Section 11**

Mr. Fruth pointed out the location of the property at W236 S7575 High Point Ct., in the Town of Vernon on the aerial photograph. He indicated the request was related to the previous CU-1187C.

*After discussion, Mr. Siepmann moved, seconded by Mr. Peregrine, and carried unanimously for approval, as conditioned in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **SCS-1135 (Richard Martens & Jacqueline Sheppard) Town of Eagle, Section 18**

Mr. Fruth pointed out the location of the property at W399 S8735 C.T.H. "Z", in the Town of Eagle, on the east and west sides of C.T.H. "Z", approximately one-half mile north of S.T.H. 59. He indicated the request is for a waiver of the requirement to include a remnant parcel on a Certified Survey Map and approval of the creation of a lot with accessory farm buildings without a residence.

Mr. Fruth stated the parcel of land is approximately 96 acres in size, located on the east and west sides of C.T.H. "Z", approximately one-half mile north of S.T.H. 59. The property is a working farm, with a house and shed on the west side of the road and a traditional barn and two sheds on the east side of the road. The majority of the property is located on the east side of the road, with that portion of property on the west side of the road being only approximately 4.2 acres. Although C.T.H. "Z" bisects the property, it is one singularly described parcel.

The petitioners are proposing to separate the land on the west side of the road from the remainder of the farm on the east side of the road, by recording a Certified Survey Map containing the area on the west side of the road only. This is being done for mortgage purposes, so they can replace the existing farmhouse with a new home, in approximately the same location. They would continue to own both parcels, with no changes in the farm operation. The petitioners are requesting a waiver to allow the proposed Certified Survey Map to contain only the 4.2 acre parcel on the west side of the road, and to allow the creation of a lot with accessory farm buildings without a principle residence. Mr. Fruth explained that it is not unusual for a farm house and the accessory farm buildings to be located on opposite sides of a road. The Planning and Zoning Division Staff recommend approval of the waiver subject to a Certified Survey Map being completed and the conditions of approval being complied with, that the Town must also approve the waiver and that the typical Environmental Corridor, floodplain and wetland restrictions be placed on the Certified Survey Map.

*After discussion, Mrs. Haukohl moved, seconded by Mr. Peregrine, and carried unanimously for approval, as conditioned in accordance with the "Staff Memorandum". The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances*

#### **ADJOURNMENT**

*With no further business to come before the Commission, Mr. Siepmann moved, seconded by Mr. Peregrine to adjourn at 2:18 p.m.*

Respectfully submitted,

*Pat Haukohl*

Pat Haukohl  
Secretary

PH:es